



Davis Wright  
Tremaine LLP

Suite 800  
1919 Pennsylvania Avenue N.W.  
Washington, D.C. 20006-3401

**Ryan M. Appel**  
202-973-4292 tel  
202-973-4492 fax

ryanappel@dwt.com

August 12, 2019

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: Crown Castle Fiber LLC v. Commonwealth Edison Company  
Proceeding Number 19-170  
Bureau ID Number EB-19-MD-005**

Ms. Dortch:

Pursuant to the Commission's June 25, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC and Commonwealth Edison Company submit the attached Joint Statement filed in the above-referenced proceeding.

Sincerely,

Davis Wright Tremaine LLP

A handwritten signature in blue ink, reading "Ryan Appel", with a large loop at the end.

Ryan M. Appel

cc: Service List

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

CROWN CASTLE FIBER LLC,

*Complainant,*

v.

COMMONWEALTH EDISON COMPANY,

*Respondent.*

Proceeding Number 19-170

Bureau ID Number EB-19-MD-005

**JOINT STATEMENT OF STIPULATED FACTS, DISPUTED FACTS, AND KEY  
LEGAL ISSUES**

Pursuant to the Commission's June 25, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC ("Crown Castle") and Commonwealth Edison Company ("ComEd"), through undersigned counsel, submit the following Joint Statement Of Stipulated Facts, Disputed Facts, and Key Legal Issues.

**I. FACTS NOT IN DISPUTE**

By submitting the following, neither Crown Castle nor ComEd agree or represent that the following identifies all facts not genuinely in dispute. Moreover, by submitting the following, neither Crown Castle nor ComEd agree that the following Facts Not In Dispute are relevant.

**A. Background and parties**

1. ComEd is an investor-owned electric utility in the business of providing electric transmission and distribution services. ComEd has a general business address of 440 South LaSalle Street, Chicago, IL 60605.
2. Crown Castle's mailing address is 1220 Augusta Drive, Suite 600, Houston, Texas 77057-2261.
3. ComEd owns or controls poles in the State of Illinois that are used for, among other things, the attachment of wireline and wireless communication facilities.

4. ComEd itself is not a railroad, a person who is cooperatively organized, or a person owned by the Federal Government or any State.
5. Crown Castle has installed and continues to install fiber and small wireless facilities on ComEd poles in the Chicago area.
6. Crown Castle does not offer wireless telecommunications in Illinois and does not itself transmit wireless signals in Illinois. Crown Castle disputes that these facts are legally relevant.
7. Crown Castle does not operate the wireless antennas it installs on ComEd's poles in Illinois. Crown Castle disputes that this fact is relevant.

**B. The parties' agreements**

**i. RCN New York/Sidera/Lighttower**

8. In 2007, the ICC granted RCN New York Communications, LLC ("RCN") a Certificate of Interexchange Service Authority to provide "facilities-based interexchange telecommunications services" in Illinois, a Certificate of Service Authority to provide "resold local and interexchange telecommunications services," and a Certificate of Exchange Service Authority to provide "facilities-based local exchange telecommunications services" in Illinois (the "RCN CPCN").

**ii. NextG Networks of Illinois**

- a. Due to its consolidation into Crown Castle Fiber LLC, Crown Castle NG Central LLC requested the ICC to cancel its Certificates of Service Authority to provide "competitive facilities-based and resold local exchange and interexchange telecommunications service" in Illinois. On March 6, 2019, the ICC granted this request.

**iii. Sunesys**

9. In 2006, the ICC granted Sunesys, LLC Certificates of Service Authority to provide "resold competitive facilities-based and resold local exchange and interexchange telecommunications service."
  - a. Due to its consolidation into Crown Castle Fiber LLC, Sunesys, LLC requested the ICC to cancel its Certificates of Service Authority to provide "competitive facilities-based and resold local exchange and interexchange telecommunications service" in Illinois. On March 6, 2019, the ICC granted this request.

**C. Paid Pole Attachment Rent Invoices****i. NextG Networks of Illinois Pole Attachment Agreement**

10. On December 22, 2004, NextG Networks of Illinois, Inc., and ComEd entered into a pole attachment agreement that permits Crown Castle to attach fiber optic lines and related attachments and wireless facilities to ComEd poles.
11. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.
12. Section 11.1.1 of the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc. provides that for each “Cable Attachment,” Crown Castle must pay an annual fee “which fee shall be calculated in accordance with the Federal Communications Commission’s rate formula applicable to attachments of telecommunications providers, insofar as that formula is applicable to the Cable Attachments.”
13. The December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc. does not differentiate between rates for solely-owned poles and rates for jointly-owned poles.
14. Crown Castle paid ComEd the following rates under the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc. from 2013 to 2018 for fiber attachments to poles solely and jointly owned by ComEd.

<b>Year</b>	<b>Fiber Rate <i>Sole</i></b>	<b>Fiber Rate <i>Joint</i></b>	<b># of Attach <i>Sole</i></b>	<b># of Attach <i>Joint</i></b>	<b>Paid Amount (Pre-Tax)</b>
<b>2013</b>			0	56	
<b>2014</b>			0	69	
<b>2015</b>			0	69	
<b>2016</b>			0	69	
<b>2017</b>			1,280	1,452	
<b>2018</b>			2,697	3,690	

15. Prior to 2019, ComEd had not been calculating its pole attachment rates charged under the Crown Castle Agreement in perfect accordance with the Commission’s rate formula applicable to pole attachments of telecommunications providers (“telecommunications formula”).

16. The Commission's telecommunications formula for attachments to poles in urban areas using the FCC presumptions for average pole height and appurtenances and data booked by ComEd to the FERC accounts used in the FCC formula generates the following rates for solely owned poles:

<b>Year</b>	<b>Fiber Rate <i>Sole</i></b>
<b>2013</b>	
<b>2014</b>	
<b>2015</b>	
<b>2016</b>	
<b>2017</b>	

17. In Section 11.1.1 of the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc., ComEd requires Crown Castle to pay ComEd [REDACTED] for each wireless attachment (what the Crown Castle Pole Attachment Agreement terms a "Micro Cell") to ComEd poles for the first year of the agreement.
18. Section 11.1.2 of the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc. provides that the pole attachment fee is to escalate annually by 2.5%.
19. Since 2010, ComEd has increased the pole attachment rate annually by 2.5%.
20. From 2013 to 2018, as confirmed by invoices from ComEd, Crown Castle paid ComEd for wireless equipment attachments under the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc. in the amounts set forth in the following chart:

<b>Year</b>	<b>Node Rate <i>Sole &amp; Joint Rates</i></b>	<b># of Attach <i>Sole</i></b>	<b># of Attach <i>Joint</i></b>	<b>Paid Amount (Pre-Tax)</b>
<b>2013</b>		48	12	
<b>2014</b>		48	12	
<b>2015</b>		48	19	
<b>2016</b>		48	19	
<b>2017</b>		268	22	
<b>2018</b>		276	300	

**ii. Sunesys Pole Attachment Agreement**

21. On May 5, 2005, Sunesys, Inc. and ComEd entered into a pole attachment agreement (the “Sunesys Pole Attachment Agreement”) that permits Sunesys to attach fiber optic lines and related attachments to ComEd poles.
22. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.
23. Section 12.1.1 of the Sunesys Pole Attachment Agreement provides that during the initial year of the agreement, the annual pole attachment rate is [REDACTED] for each “Facility” (which is defined as any cable or other form of attachment to a ComEd pole) and for each “Power Supply” and during the second year, the annual attachment rate will be [REDACTED] for each Facility and each Power Supply. Section 12.1.2 provides for a 3% increase in the annual rate each subsequent year.
24. The Sunesys Agreement does not differentiate between rates for solely-owned poles and rates for jointly-owned poles.
25. Crown Castle paid ComEd the following rates and amounts under the Sunesys Pole Attachment Agreement from 2013 to 2018 for fiber attachments to poles solely and jointly owned by ComEd.

<b>Year</b>	<b>Fiber Rate <i>Sole</i></b>	<b>Fiber Rate <i>Joint</i></b>	<b># of Attach <i>Sole</i></b>	<b># of Attach <i>Joint</i></b>	<b>Paid Amount (Pre-Tax)</b>
<b>2013</b>	[REDACTED]	[REDACTED]	1,681	592	[REDACTED]
<b>2014</b>	[REDACTED]	[REDACTED]	1,681	592	[REDACTED]
<b>2015</b>	[REDACTED]	[REDACTED]	1,794	674	[REDACTED]
<b>2016</b>	[REDACTED]	[REDACTED]	1,794	674	[REDACTED]
<b>2017</b>	[REDACTED]	[REDACTED]	1,794	674	[REDACTED]
<b>2018</b>	[REDACTED]	[REDACTED]	1,825	674	[REDACTED]

**iii. Lightower Pole Attachment Agreement**

26. On July 26, 2013, Sidera Networks, LLC d/b/a Lightower Fiber Networks and ComEd entered into a pole attachment agreement (the “Lightower Pole Attachment Agreement”) that permits Lightower to attach fiber optic lines and related attachments to ComEd poles.

27. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.
28. Section 12.1.1 of the Lighttower Pole Attachment Agreement provides that during the initial year of the agreement, the annual pole attachment rate is [REDACTED] for each “Facility” (which is defined as any cable or other form of attachment to a ComEd pole) and for each “Power Supply” and during the second year, the annual attachment rate will be [REDACTED] for each Facility and each Power Supply. Section 12.1.2 provides for a 5% increase in the annual rate each subsequent year.
29. The Lighttower Agreement does not differentiate between rates for solely-owned poles and rates for jointly-owned poles.
30. Crown Castle paid ComEd the following rates under the Lighttower Pole Attachment Agreement from 2016 to 2018 for fiber attachments to poles solely and jointly owned by ComEd.

<b>Year</b>	<b>Fiber Rate <i>Sole</i></b>	<b>Fiber Rate <i>Joint</i></b>	<b># of Attach <i>Sole</i></b>	<b># of Attach <i>Joint</i></b>	<b>Paid Amount (Pre-Tax)</b>
<b>2013</b>	[REDACTED]	[REDACTED]	0	0	[REDACTED]
<b>2014</b>	[REDACTED]	[REDACTED]	0	0	[REDACTED]
<b>2015</b>	[REDACTED]	[REDACTED]	0	0	[REDACTED]
<b>2016</b>	[REDACTED]	[REDACTED]	33	23	[REDACTED]
<b>2017</b>	[REDACTED]	[REDACTED]	33	23	[REDACTED]
<b>2018</b>	[REDACTED]	[REDACTED]	33	23	[REDACTED]

#### **D. FCC Telecommunications Formula**

31. ComEd provided pole attachment rate calculations to the Commission calculating telecommunications pole attachment rates pursuant to the formulas set forth in 47 CFR § 1.1406 for years 2013 to 2019.
32. These pole attachment rate calculations were submitted as Attachment G to Crown Castle’s Complaint and Attachment F, Exhibit 2 to ComEd’s Answer.
33. Using the Commission’s telecommunications formula, both Crown Castle and ComEd appear to have applied the year-end values that ComEd reported to the Federal Energy Regulatory Commission (FERC) for the FERC accounts included in the telecommunications formula in their calculations for years 2013 to 2019.

34. ComEd jointly owns some, but not all poles, with AT&T.
35. ComEd provided a pole count equivalent of 1,098,478 to Crown Castle on September 28, 2018.
36. ComEd provided its year-end pole count equivalents for years 2012 to 2018 with its Answer.
37. Except for fiber attachments under the December 22, 2004 pole attachment agreement with NextG Networks of Illinois, Inc., in charging pole attachment rents to Crown Castle, ComEd did not reduce the per pole rents to reflect its shared ownership in poles jointly owned with AT&T.
38. ComEd billed Crown Castle in arrears for the June 1, 2016 to May 31, 2017 billing period and the June 1, 2017 to May 31, 2018 billing period.
39. In calculating the pole attachment rates for 2013 to 2018 using the Commission's telecom formula, Crown Castle at CCF 368-370 in its Complaint and ComEd's rental rate calculations at CEC 111-153 of its Answer utilized the FCC's presumed 15% appurtenance deduction.
40. In its Third Set of Responses to Crown Castle's First Set of Interrogatories, ComEd provided ComEd's capital costs for appurtenances included in FERC Account 364 for the years 2017 and 2018.
41. In calculating the pole attachment rates using the Commission's telecom formula, Crown Castle at CCF 368-370 in its Complaint and ComEd in ComEd's rental rate calculations at CEC 111-153 of its Answer used the FCC's presumed 37.5 foot pole height in accordance with 47 CFR § 1.1410.
42. In its Second Set of Responses to Crown Castle's First Set of Interrogatories, ComEd, for the years 2017 and 2018, provided a document that reflects the number of poles that it solely and jointly owns along with the corresponding heights for these poles.
43. The amount reported by ComEd for its 2017 year-end FERC Account 282 (\$3,266,721,507) was 39% less than the amount reported for year-end 2016 (\$5,354,257,495). The amount for year-end 2018 (\$3,525,737,824) reflected a relatively modest 8% increase over year-end 2017 numbers. This increase is consistent with year over year increases in ComEd's reported amounts for Account 282 prior to the Tax Cuts and Jobs Act ("TCJA").
44. The amount reported by ComEd for its 2017 year-end FERC Account 283 (\$502,998,756) was 41% less than the amount reported for year-end 2016 (\$858,899,213). The amount for year-end 2018 (\$572,603,780) reflected a relatively



modest 14% increase over year-end 2017 numbers. This increase is consistent with year over year increases in ComEd's reported amounts for Account 283 prior to the TCJA.

45. The amount reported by ComEd for its 2017 year-end FERC Account 190 (\$262,461,556) decreased by 53% from the amount reported from year-end 2016 (\$557,637,369). The amount for yearend 2018 (\$245,037,242) also decreased, but by a modest 6.6%, which is consistent with fluctuations in this ComEd's amounts reported for Account 190 prior to the TCJA.
46. Any reduction in accumulated deferred income taxes has the effect of raising the net cost of a bare pole, which has the effect of increasing the pole attachment rental rate. The reduction also has the effect of reducing certain of the carrying charges used in the telecom formula. The net effect of the reduction in accumulated deferred taxes is an increase in the rental rate.
47. FERC Account 254 has not to date been used in the Commission's telecom formula.
48. Pursuant to the TCJA, most of such excess relating to so-called normalized ADIT is to be returned over a very extended amortization schedule using the ARAM methodology. In its 2018 filing with the Illinois Commerce Commission for its annual formula rate update and revenue requirement reconciliation, ComEd proposed a 39.47-year amortization period, which also used the ARAM methodology. The ICC approved this proposal, finding it aligned with the amortization of the excess ADIT with the useful life of the underlying assets.
49. Changes to accumulated deferred income tax figures affect the FCC's pole attachment rental rate calculation.

#### **E. Meetings**

50. Crown Castle and ComEd have discussed this rate dispute during a number of meetings between the parties.
51. On December 4, 2018, Crown Castle and ComEd held an executive-level meeting at ComEd's office located at 2 Lincoln Centre, Oakbrook Terrace, IL 60181.
52. During a follow-up call on December 14, 2018, the parties agreed to form "sub-teams" comprised of operational representatives from both Crown Castle and ComEd to specifically focus on resolving the pole attachment rates dispute.
53. On October 25, 2018, the Illinois Commerce Commission adopted a letter to the FCC stating that it does not regulate "attachments by telecommunications companies to poles owned by electric utilities.

## **II. DISPUTED FACTS**

The Parties have submitted extensive pleadings setting forth in detail their factual and legal contentions, and generally refer the Commission to those pleadings. Unless identified above, the Parties are unable to agree that a fact is not in dispute. By submitting the following, neither Crown Castle nor ComEd agree or represent that the following identifies all facts genuinely in dispute. Moreover, by submitting the following, neither Crown Castle nor ComEd agree that the following are relevant. Without waiving any of the factual or legal arguments or objections in their pleadings, the Parties identify the following

### **A. Rates for Fiber Attachments**

1. The parties dispute the wireline pole attachment rates for the years 2018 and 2019 (calculated using year-end 2017 and 2018 data, respectively).
2. For these years, Crown Castle asserts that ComEd should, in calculating pole attachment rates, deduct, deduct any unamortized excess ADIT resulting from the TCJA from total gross plant and gross pole investment in ComEd's pole attachment rate calculations. ComEd asserts a rulemaking proceeding would be necessary to incorporate such a change.
3. Crown Castle asserts that in ComEd's Answer in response to paragraph 38 of the Complaint, ComEd stated that "Pursuant to the enactment of the TCJA, ComEd re-measured its existing deferred income tax balances as of December 31, 2017 to reflect the decrease in the federal corporate income tax rate from 35% to 21%. ComEd recorded a corresponding net regulatory liability (Account 254) to the extent such EDIT amounts are expected to pass through in customer rates and an adjustment to income tax expense for all other amounts." Crown Castle asserts that excess ADIT (aka EDIT) was transferred but contends that it requires further information requested in discovery to verify the complete accuracy of this statement.

### **B. Rates for Wireless Node Attachments**

4. The parties dispute the amount of space occupied by Crown Castle's attachments on ComEd's poles.
5. Crown Castle asserts that, at most, 6 feet is the largest amount of usable space occupied by its wireless node attachments.

6. ComEd asserts that Crown Castle's wireless node attachments occupy more than 6 feet of pole space, and that any FCC formula for wireless attachments should also count the space necessary for clearances.

**C. Other Disputed Facts**

7. ComEd contends that in 2017-2018, both parties met repeatedly with the ICC to try to resolve this red tag and make-ready dispute.
8. ComEd disputes whether ComEd has a written pole attachment agreement with Crown Castle.
9. ComEd claims that the wireless antennas Crown Castle installs on ComEd's poles are incapable of providing any telecommunications service until Crown Castle's wireless customers come along and use those antennas to themselves provide a service. Crown Castle contends that ComEd's claim is legally irrelevant because the antennas are an attachment by a provider of telecommunications service and thus protected by Section 224 and the Commission's rules, and that in addition, the antennas installed by Crown Castle are an integral part of one of the telecommunications services it provides and therefore are used in the provision of telecommunications service.
10. Crown Castle contends that Crown Castle has a Certificate of Service Authority issued by the Illinois Commerce Commission ("ICC") to RCN New York Communications, LLC in 2007.
11. ComEd disputes whether Crown Castle offers and provides telecommunications services and is a telecommunications carrier in Illinois.
12. Crown Castle disputes that the identity of Crown Castle or any of the following corporate transactions and name changes are or can be legitimately in dispute. ComEd asserts that it has not had a chance to review the following corporate transactions and name changes.

**i. RCN New York/Sidera/Lighttower**

13. Regarding the identity of Crown Castle Fiber LLC, Crown Castle asserts as follows:
  - a. In 2007, the ICC granted RCN New York Communications, LLC ("RCN") a Certificate of Interexchange Service Authority to provide interexchange facilities-based telecommunications services in Illinois, a Certificate of Service Authority to provide resold local and interexchange telecommunications services, and a Certificate of Exchange Service Authority to provide local facilities-based telecommunications services in Illinois (the "RCN CPCN").

- b. On November 18, 2010, RCN changed its name to Sidera Networks, LLC.
- c. On October 1, 2014, Sidera Networks, LLC changed its name to Lightower Fiber Networks II, LLC.
- d. On May 16, 2018, Lightower Fiber Networks II, LLC changed its name to Crown Castle Fiber LLC.
- e. Crown Castle Fiber LLC is the same entity granted the RCN CPCN as the result of several name changes.
- f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by Sidera Networks, LLC d/b/a Lightower Fiber Networks and ComEd (“Lightower Pole Attachment Agreement”) on July 26, 2013.
- g. On October 1, 2014, Sidera Networks, LLC changed its name to Lightower Fiber Networks II, LLC.
- h. On November 1, 2017, Crown Castle International Corp., through several indirect subsidiaries, acquired Lightower Fiber Networks II, LLC. Lightower Fiber Networks II’s existence remained unchanged, however, other than a change of its ultimate parent entity.
- i. On May 16, 2018, Lightower Fiber Networks II, LLC changed its name to Crown Castle Fiber LLC.
- j. Thus, Crown Castle Fiber LLC is the same entity that entered the Lightower Pole Attachment Agreement.

**ii. NextG Networks of Illinois**

14. Regarding the corporate connection between Crown Castle Fiber LLC and NextG Networks of Illinois, Inc. Crown Castle asserts as follows:
- a. In 2003, the ICC granted NextG Networks of Illinois, Inc. a Certificate of Interexchange Service Authority to provide interexchange facilities-based telecommunications services, Certificate of Service Authority to provide resold local and interexchange telecommunications services in Illinois, and a Certificate of Exchange Service Authority to provide local facilities-based telecommunications services.
  - b. On May 3, 2012, NextG Networks of Illinois, Inc. changed its name to Crown Castle NG Central Inc.
  - c. Crown Castle NG Central Inc. then converted into to Crown Castle NG Central LLC on December 20, 2013.

- d. Crown Castle NG Central LLC was subsequently merged into Crown Castle Fiber LLC, which was an affiliate of Crown Castle NG Central LLC via common ownership, effective as of 11:59 pm on December 31, 2018.
- e. Due to its merger into Crown Castle Fiber LLC, which already held Certificates of Authority from the ICC (as discussed above), Crown Castle NG Central LLC requested the ICC to cancel its Certificates of Service Authority to provide competitive facilities-based and resold local exchange and interexchange telecommunications service in Illinois. On March 6, 2019, the ICC granted this request.
- f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by NextG Networks of Illinois, Inc. and ComEd (“Crown Castle Pole Attachment Agreement”) on December 22, 2004.

**iii. Sunesys**

15. Regarding the corporate connection between Crown Castle Fiber LLC and Sunesys, Inc., Crown Castle asserts as follows:

- a. In 2006, the ICC granted Sunesys, Inc. a Certificates of Service Authority to provide resold competitive facilities-based and resold local exchange and interexchange telecommunications service.
- b. Sunesys, Inc. converted into Sunesys, LLC on December 28, 2006 via a merger, which had the effect of changing the corporate form of the entity.
- c. On August 4, 2015, through a merger at the ultimate parent level, Sunesys LLC became an indirect subsidiary of Crown Castle International Corp. Sunesys LLC’s existence remained unchanged, other than its ultimate parent.
- d. On December 31, 2018, Sunesys, LLC was ultimately merged into Crown Castle Fiber LLC, which was an affiliate of Sunesys, LLC via common ownership.
- e. Due to its merger into Crown Castle Fiber LLC, Sunesys, LLC requested the ICC to cancel its Certificates of Service Authority to provide competitive facilities-based and resold local exchange and interexchange telecommunications service in Illinois. On March 6, 2019, the ICC granted this request.
- f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by Sunesys, Inc. and ComEd (“Sunesys Pole Attachment Agreement”) on May 5, 2005.
- g. The current Crown Castle Fiber LLC holds assets having a value well in excess of \$11 billion based upon the acquisition of those entities and other

affiliated entities that have also been merged into Crown Castle Fiber LLC, and has no direct debt. Therefore, the contracting party with ComEd is a substantially larger entity with a greater net worth than Sunesys LLC, Crown Castle NG Central LLC, or Lightower Fiber Networks II, LLC, formerly known as Sidera Networks, LLC.

### **III. KEY LEGAL ISSUES**

The Parties have submitted extensive pleadings setting forth in detail their legal arguments, and the Parties refer the Commission to those pleadings for a complete statement of their legal arguments. Despite extensive discussion, the Parties are not able to agree on a statement of the key legal issues.

**JOINT STATEMENT OF ALL PROPOSALS AGREED TO AND REMAINING  
DISPUTES**

Pursuant to the Commission's June 25, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC ("Crown Castle") and Commonwealth Edison Company ("ComEd"), through undersigned counsel, submit the following Joint Statement Of All Proposals Agreed To And Remaining Disputes.

**I. PROPOSALS AGREED TO**

Crown Castle and ComEd have not agreed to any proposals.

**II. REMAINING DISPUTES**

The Parties have resolved none of their disputes, and other than the agreed to facts identified above, represent that all factual and legal issues set forth in their pleadings remain in dispute.

**III. DISCOVERY MATTERS**

The parties have exchanged interrogatories. Crown Castle has identified certain deficiencies in ComEd's responses and anticipates filing a motion to compel. ComEd has not yet received Crown Castle's responses to ComEd's interrogatories since those responses are due today. ComEd anticipates seeking additional discovery. Crown Castle opposes any such additional discovery.

**IV. SCHEDULES FOR PLEADINGS**

ComEd anticipates filing for leave to respond to Crown Castle's Reply, which Crown Castle intends to oppose.

Respectfully submitted,

**Crown Castle Fiber LLC**

/s/ T. Scott Thompson  
By its Attorneys  
T. Scott Thompson  
Maria T. Browne  
Ryan M. Appel  
Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue, N.W., Suite 800  
Washington, D.C. 20006  
202-973-4200 (Main Phone)  
202-973-4499 (Main Fax)  
[scottthompson@dwt.com](mailto:scottthompson@dwt.com) (E-mail)

**Commonwealth Edison Company**

/s/ Thomas Magee  
By its Attorneys  
Thomas B. Magee  
Timothy A. Doughty  
Keller and Heckman LLP  
1001 G Street NW Suite 500 West  
Washington, DC 20001 (202) 434-4100  
(phone) (202) 434-4646 (fax)  
[magee@khlaw.com](mailto:magee@khlaw.com) (E-mail)  
[doughty@khlaw.com](mailto:doughty@khlaw.com) (E-mail)

August 12, 2019



**RULE 1.721(m) CERTIFICATIONS**

I, T. Scott Thompson, Complainant Crown Castle Fiber LLC verify that I have read this Joint Statement and to the best of my knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law; and it is not interposed for any improper purpose.

/s/ T. Scott Thompson

Further, I, Thomas B. Magee, counsel for Respondent Commonwealth Edison Company verify that I have read this Joint Statement and to the best of my knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law; and it is not interposed for any improper purpose.

/s/ Thomas Magee

**CERTIFICATE OF SERVICE**

I hereby certify that on August 12, 2019, I caused a copy of the foregoing Joint Statement to be served on the following (service method indicated):

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A325  
Washington, DC 20554  
(ECFS)

Bradley R. Perkins  
Assistant General Counsel, Regulatory  
ComEd  
10 South Dearborn Street  
49<sup>th</sup> Floor  
Chicago, IL 60603  
[Bradley.Perkins@exeloncorp.com](mailto:Bradley.Perkins@exeloncorp.com)  
(E-mail)

Rosemary McEnery  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
[Rosemary.McEnery@fcc.gov](mailto:Rosemary.McEnery@fcc.gov)  
(E-Mail)

Thomas B. Magee  
Keller and Heckman LLP  
1001 G Street, NW  
Suite 500 West  
Washington, DC 20001  
[Magee@khlaw.com](mailto:Magee@khlaw.com)  
(E-mail)

J. Adam Suppes  
Enforcement Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554  
[Adam.Supes@fcc.gov](mailto:Adam.Supes@fcc.gov)  
(E-Mail)

Timothy A. Doughty  
Keller and Heckman LLP  
1001 G Street, NW  
Suite 500 West  
Washington, DC 20001  
[Doughty@khlaw.com](mailto:Doughty@khlaw.com)  
(E-mail)

/s/ T. Scott Thompson  
T. Scott Thompson